

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

| | | |
|----------------------------------|---|---------------------|
| JOE R. GRASER, |) | CASE NO. 5:07CV1050 |
| |) | |
| Plaintiff, |) | JUDGE SARA LIOI |
| |) | |
| vs. |) | |
| |) | MEMORANDUM OPINION |
| |) | AND ORDER |
| MICHAEL J. ASTRUE, |) | |
| Commissioner of Social Security, |) | |
| |) | |
| |) | |
| Defendant. |) | |

Before the Court is the report and recommendation of the Magistrate Judge in the above-entitled action. Under the relevant statute:

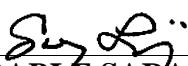
Within ten days after being served with a copy, any party may serve and file written objections to such proposed findings and recommendations as provided by rules of court. A judge of the court shall make a *de novo* determination of those portions of the report or specified proposed findings or recommendations to which objection is made.

28 U.S.C. § 636(b)(1)(C). In this case, the ten-day period has elapsed and no objections have been filed. Defendant, Michael J. Astrue, Commissioner of Social Security (Commissioner), filed a response indicating that, in fact, he has no objections to the report and recommendation of the Magistrate Judge. The failure to file written objections to a Magistrate Judge's report and recommendation constitutes a waiver of a *de novo* determination by the district court of an issue covered in the report. *Thomas v. Arn*, 728 F.2d 813 (6th Cir. 1984), *aff'd*, 474 U.S. 140 (1985); *see United States v. Walters*, 638 F.2d 947 (6th Cir. 1981).

The Court has reviewed the Magistrate Judge's report and recommendation and adopts the same. Accordingly, the final decision of the Commissioner is **REVERSED**. Pursuant to sentence four of 42 U.S.C. § 405(g), this matter is hereby **REMANDED** to the Commissioner for a new hearing and entry of decision based thereon.

IT IS SO ORDERED.

Dated: February 15, 2008


HONORABLE SARA LIOI
UNITED STATES DISTRICT JUDGE